

EXPLORING THE POLICY ISSUES OF
ELECTRONIC FREEDOM OF INFORMATION ACT
REQUESTS THROUGH THE USE OF THE
GOVERNMENT INFORMATION LOCATOR SERVICE

THESIS

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Abstract

This study provides a preliminary view of the policy issues involved with allowing electronic Freedom of Information Act (FOIA) requests through the use of the Government Information Locator Service. The author used an exploratory, qualitative methodology consisting of an extensive literature review and a self-administered questionnaire that was sent to 54 Air Force (AF) FOIA managers.

The literature review revealed that an informed citizenry is critical to a democratic society. To ensure its citizens have the opportunity to stay informed, Congress has enacted and amended laws to protect public access to federal information. The primary benefits of electronic FOIA requests indicated by AF FOIA managers were faster processing, quicker response, and better customer service. The primary issues involved with electronic FOIA requests concerned legal requirements for original signatures, Privacy Act restrictions, and accountability for receipt of the request.

The first recommendation from this research is for the AF to determine the legality of accepting electronic FOIA requests. Next, there is a need for increased standardization concerning how FOIA requests are received and processed. Finally, as a means to possibly decrease the total number of FOIA requests, the AF should be proactive in making more information available to the general public.

Chapter 1

Introduction

General Issue

Advances in information technology have changed information dissemination procedures. The Department of Defense (DoD) now has available new media and formats for dissemination, including electronic mail and bulletin boards, CD-ROM, and public networks such as the Internet. The growing public acceptance of electronic data interchange and the World Wide Web enhance their attractiveness as methods for Government information dissemination. Agencies can frequently enhance the value, practical utility, and timeliness of Government information as a national resource by disseminating information in an electronic form.

As part of the National Information Infrastructure and through the Paperwork Reduction Act of 1995, the Federal Government has established the Government Information Locator Service (GILS) to help the public locate and access information (OMB, 1993). The creation of GILS is a goal of *The National Information Infrastructure: Agenda for Action* which called for the establishment of a “virtual card catalog” of Government information holdings (IITF, 1993). GILS is a decentralized collection of agency-based locators that use network technology and international standards to direct users to relevant information resources within the Federal Government

(OMB, 1993). Agencies may use existing networks and computer systems to publicize the locators appropriate to their functional area. For example, an agency may use an existing homepage to provide access to their locators. Then a user may review the agency's homepage and retrieve the information on the locators.

GILS' locators must identify public information resources, describe the information available in these resources, and provide guidance on how to obtain the information from the particular agency (OMB, 1993). Basically, GILS provides an electronic way to identify, describe, and locate publicly available Federal information resources, including resources in electronic form. GILS supplements, but does not necessarily supplant, other agency information dissemination programs such as the Freedom of Information Act (FOIA) Program.

The FOIA Program entitles citizens to access any record maintained by an Executive branch agency. Under FOIA, members of the public, including foreign citizens, military and civilian personnel, organizations and businesses, and individual members of the Congress may make written requests for records. The written request must be addressed to the FOIA office of the agency that has the record and must reasonably describe the desired record. The agency must release the requested record within ten workdays, unless the record falls within one of nine exempted categories. Although the FOIA legally entitles citizens to access any record, the request must be submitted by a written letter. It is not possible to submit an electronic FOIA request.

Electronic collection and dissemination may substantially increase the usefulness of Government information products for three reasons. First, information disseminated electronically is likely to be more timely and accurate because it does not require data re-

entry. Second, electronic records often contain more complete and current information because, unlike paper, it is relatively easy to make frequent changes. Finally, because electronic information is more easily manipulated by the user and can be tailored to a wide variety of needs, electronic information may be more useful to the recipients.

Specific Problem Statement

The underlying mandate of GILS is to provide an electronic dissemination mechanism for information resources throughout the Federal Government. However, if the information is not available through GILS, users cannot make a FOIA request through the system. Currently there are no means to submit electronic FOIA requests. This thesis explores the issues of submitting electronic FOIA requests through GILS as a means to facilitate the transfer of Government information to the public.

Investigative Questions

1. Are there benefits in allowing electronic FOIA requests?
2. Are there policy issues involved with allowing electronic FOIA requests?
3. Can the Government Information Locator Service be used as a means for allowing electronic FOIA requests?

Scope of the Research

This research explores the possibility of supporting electronic FOIA requests through the use of GILS. Since the FOIA is a public law and the GILS is a federally mandated service, this research will focus on the statutory requirements of each. Only those issues directly applicable to allowing electronic FOIA requests will be analyzed in answering the research questions.

Definitions

The FOIA defines the term “agency” as any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency (5 USC, Section 552).

The Office of Management and Budget (OMB) Circular No. A-130, defines the term “records” as:

all books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included. (OMB, 1993)

Thesis Organization

Chapter 1 provides background for the study, identifies the problem, and further refines the scope of the issues to be addressed. Chapter 2 summarizes the results of the literature review, covering: the FOIA, its problems, and its latest amendment; electronic access and dissemination of Government information; the GILS within the Federal Government; and the Base Level FOIA Business Process and Data Modeling Project. Chapter 3 outlines the methodology used to synthesize the data collected from the literature review and the questionnaires. Chapter 4 presents a summary of the literature review and analyzes the descriptive statistics of the data provided on the FOIA

questionnaire. and discusses the results of the study overall. Chapter 5 provides answers to the three investigative questions, discusses other findings of the study and limitations of the research, and makes overall recommendations, as well as recommendations for future research in this area.

Chapter 2

Literature Review

Introduction

This chapter reviews pertinent legislation and literature pertaining to the potential policy issues involved with using the Government Information Locator Service (GILS) as a means for electronic Freedom of Information Act (FOIA) requests. The review begins by examining the legislative mandates and problems of the FOIA. It then describes the Electronic Freedom of Information Amendments of 1996, which amends the FOIA to require agencies to apply public information requirements to information maintained in an electronic format. The review also examines electronic access and dissemination of Government information and the aspiration of the National Information Infrastructure. The review then describes the historical development of the GILS within the Federal Government. The discussion finishes with an overview of the Base Level FOIA Business Process and Data Modeling project conducted at Hanscom Air Force Base, Maryland.

Freedom of Information Act (FOIA)

United States' Government information falls into three general categories. First, there is the information contained in Government records which must be made available to members of the public on request. Secondly, there is an intermediate category of

information which may be released at the discretion of Government officials. Finally, there is Government information which is legally protected against unauthorized disclosure, either by civil remedies or by criminal penalties (Marsh, 1987). The Freedom of Information Act (Title 5, United States Code, Section 552, as amended) pertains to information in the first category.

While the First Amendment to the United States Constitution guarantees freedom of the press, it was not until 1966 that the FOIA was enacted providing a right of public access to most federal Government records. This law, which was amended in 1974 and 1986, gave the public greater access to information about Government practices and decision making. Significantly, this swing toward greater Government access took place at the same time that technological developments provided the Government with ever greater information-management abilities. The most fundamental change made by the FOIA was to remove the “need to know” requirement and extend the right to the public generally. The FOIA allows access to official records, including agency rules, opinions, orders, records, proceedings, as well as any official publications which have been withheld from the public (5 USC, Section 552(a)). For purposes of this chapter, the term “agency” takes on the meaning as defined in Chapter 1, which is any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency (5 USC, Section 552). Although it was considered to be a law that would be used by the press, many of the important early court cases were brought by consumer and environment

protection groups. Much of the information that they sought concerned Government regulation of business and disclosure of trade secrets (Marsh, 1987).

The FOIA requires three types of disclosure. First, rules of practice followed by agencies must be published in the Federal Register (5 USC, 552(a)(1)). Secondly, other records are to be made available in reading rooms and indexed (5 USC, 552(a)(2)), or thirdly, records are to be disclosed upon request (5 USC, 552(a)(6)). It is the last category of records with which the courts have been mostly concerned. The three types of disclosures pertain only to the Executive Branch (including independent regulatory agencies). The law does not cover the judiciary, congress, or state Governments; however, several states have enacted their own freedom of information laws (5 USC, 552(e)).

Within the Department of Defense (DoD), the mandates of the FOIA are implemented in the DoD Directive 5400.7, May 13, 1988, *DoD Freedom of Information Act Program*. This directive establishes policies and procedures and applies to the Office of the Secretary of Defense (OSD), the Organization of the Joint Chiefs of Staff (OJCS), the Unified Commands, the Defense Agencies, the DoD Field Activities, and the Military Departments (DoD, 1988). The Air Force (AF) follows this directive and implements its FOIA program in AF Instruction 37–131. This instruction provides general guidance and responsibilities in the submission and processing of FOIA requests.

Under FOIA, citizens, organizations and businesses, and individual members of Congress must submit requests for records in writing. The written request must reasonably describe the desired record, include a statement of fees, and must be sent to the FOIA office of the agency that has the record. The requester is responsible for

identifying the desired record and should sufficiently describe the record so that it can be located with a reasonable amount of effort (DAF, 1995). Generally, a reasonable description contains enough information for the agency to process the request by conducting an organized, nonrandom search.

In processing the request, agencies must follow guidelines established in the Act and its amendments. Each agency, upon receipt of the request, must comply with the request within ten days (not including Saturdays, Sundays, and legal holidays) unless the record belongs to one of the nine exempted categories (5 USC, 552(a)(6)). The nine FOIA exemptions are discretionary exceptions from the Act's compulsory disclosure requirements (5 USC, 552(b)). There is a fair amount of uncertainty in the interpretation of most of the exemptions and their application to particular records and circumstances. Refer to Appendix A for a summary of the nine exemptions to the FOIA.

If the request does not fall into one of the nine exemption categories, the agency needs to make a reasonable effort to find the records described. However, they are not required to create records to complete the request. Originally, the FOIA only pertained to records in paper form. The definitions of "reasonable effort," "upon receipt," and "creation of records" have become vague given computer capabilities for electronic accessing, searching, segregating, and consolidating of data. The Electronic Freedom of Information Amendments of 1996, discussed later, require agencies to include in the search records maintained in electronic form. After the record has been found, agencies must determine the applicable fees to charge the requester. As Table 1 indicates, for the Air Force, requesters' fees depend on whether they belong to Category 1, Category 2, or Category 3 (DAF, 1995).

Table 1. AF FOIA Categories and Fees

CATEGORY	NAME	FEES
1	Commercial	Requesters pay all search, review, and duplication charges.
2	Educational, Noncommercial Scientific Institution, or News Media	Requesters get the first 100 copies free and pay for additional copies (do not pay search or review charges.)
3	Others	Requesters get the first 2 hours of search and the first 100 copies free (do not pay review charges.)

Problems with the FOIA

Federal agencies are inundated with requests for Government information made under the FOIA. This has caused enormous backlogs of FOIA requests and has prevented agencies from processing requests within the mandated ten business days. In 1993, President Clinton and Attorney General Janet Reno tried to remedy this situation by issuing new FOIA policy directives that reverse standing policy and call for a presumption of openness. The instructions revoke the Government's policy of the past 12 years, which was based on a 1981 federal rule that called for withholding information whenever there was a substantial legal basis for such action (Gersh, 1993). In its place, the Clinton policy directive called for the presumption of disclosure. Carl Stern, director of public affairs for the Justice Department, said the department cut the backlog – perhaps by as much as 15 percent – although they spent \$30 million responding to requests and still ended the year with thirty thousand requests older than six months (Howell, 1995). Although Attorney General Reno made good on many of the promises of more openness, the policy did not alleviate the backlog problems.

Backlogs and the time it takes to respond to FOIA requests cause serious delays in the FOIA process. In 1994, it took the Immigration and Naturalization Service an average of 85 days to respond to a FOIA request. The FBI is even slower, with an average response time of 340 days. The most depressing statistic was from the Civil Rights Division of the Department of Justice. They had a few unanswered requests that have been pending for 15 years (Sinrod, 1994). Some backlog cases are due to requests that involve more than 3,000 pages. Hundreds of those types of requests tie down dozens of searchers and analysts. At the Justice Department, 617 full-time positions are devoted just to answering FOIA requests. The Defense Department spent more than \$31 million responding to such queries in 1995 (Moss, 1996).

FOIA Amendment of 1996

The Electronic Freedom of Information Amendments (EFOIA) of 1996 was signed by the President on October 2, 1996, and became Public Law 104-231. Senator Leahy, a sponsor of the bill, said the EFOIA of 1996 would force agencies to make more Government information available electronically. “Gone are the days when agency records were solely on paper stuffed into file cabinets,” the senator told members of a House Government Reform and Oversight subcommittee at a hearing. “Instead, agencies depend on personal computers, computer databases, and electronic storage media to carry out their missions.” (Dorobek, 1996). The law specifically finds that Government agencies increasingly use computers to conduct agency business and to store publicly valuable agency records and information.

The EFOIA of 1996 amends the FOIA in a number of ways. It requires agencies to publish via computer telecommunications or other electronic means all information required to be published in the *Federal Register* (USC 2(a)(5), 1996). It also states that Government agencies should use new technology to enhance public access to agency records (USC 2(a)(6), 1996). A record means all books, papers, maps, photographs, machine-readable materials, or other information or documentary materials, regardless of physical form or characteristics (USC 4(d), 1996). Furthermore, agencies need to make reasonable efforts to search for records in electronic format and provide records in the format requested, including in electronic format, even when such records are not usually maintained but are available in such format (USC 5(c), 1996).

The EFOIA of 1996 has four primary purposes. The first purpose is to foster democracy by ensuring public access to agency records and information. The second purpose is to improve public access to agency records and information. The third purpose is to maximize the usefulness of agency records and information collected, maintained, used, retained, and disseminated by the Federal Government. The fourth purpose is to ensure agency compliance with statutory time limits (USC 2(b), 1996).

The EFOIA includes different measures to help agencies comply with statutory time limits and to help alleviate the backlog problem. The Amendment doubles the statutory time agencies have to comply with requests. Agencies now have twenty days to comply instead of the previous ten days (USC 6(c), 1996). Next, agencies may establish separate processing tracks for simple and complex requests using a first-in, first-out priority system within each track. A simple request is one that requires less than eleven days to make a determination on whether to comply with the request; a complex request requires

eleven or more days to make a determination (USC 6(f), 1996). Finally, if the Comptroller General determines that an agency has processed requests responsively, one-half of the fees collected shall be credited to the collecting agency to offset the costs of complying through staff development and acquisition of additional request processing resources (USC 6(a), 1996).

The law also calls upon agencies to take affirmative steps to put more Government information on-line. It directs agencies to make publicly available for inspection and copying disclosed records that are likely to be the subject of future requests (USC 4(g), 1996). Agencies must also provide an index of all major information systems containing agency records and, for any new major information system, provide a statement of how the system will enhance agency operations (USC 4(e), 1996). With the explosive growth in electronic information storage, processing, and transmission by the Federal Government, the EFOIA of 1996 provides electronic access to this information.

Access and Dissemination of Information

The focus of many policy mandates is on access to Government information and dissemination of Government information (Turfan, 1994). There is an important distinction between the two concepts. Access to information “refers to when the public comes to the Government and asks for information the Government has and the public is entitled to” while dissemination of information “refers to those situations in which the Government provides the public with information without the public having to come and ask for it” (USC, 1980). With the exception of the smallest independent agencies, most federal agencies have electronically disseminated information products to the public on

magnetic tape, floppy disk, and CD ROM. In the last few years, as connectivity has progressed, attention has been given to electronic access of Government information via the Internet and the World Wide Web (WWW).

Electronic access and dissemination mechanisms often produce cost-saving measures for the information producer. Agencies realize cost avoidances from reductions in error rates, decreased costs in information collection or capture, and increased timeliness in processing and publishing (either internally or externally) the information (Reynolds, 1992). However, citizens are bearing additional costs for hardware, software, connectivity, and training. There is a concern that public information products and services maintained in electronic format should not be disseminated only electronically. Not all citizens have the necessary skills or equipment to retrieve on-line information. Such a requirement might widen the gap between the information-rich and the information-poor. Regardless, there is no way to get around the increased emphasis on electronic access.

The explosive growth of Governmental electronic information has expanded the public's awareness of 24-hour-a-day access to information and services. Many elected officials are going on-line to communicate with constituents. Indeed, a democracy functions best when citizens are guaranteed affordable, if not free, access to Government information and data. According to the *Washington Post*, about 40 United States representative and 30 senators have Internet addresses, and an equal number of members and committees are requesting access ("E-mail puts Congress," 1994). When Vice President Gore introduced the National Performance Review report in September 1993, more than 100,000 copies of the report were downloaded electronically within the first

week (“Government on–line,” 1994). The report recommended re–engineering Government programs to make more effective use of information technology, specifically including delivering Government benefits electronically, expanding electronic filing programs, and developing and marketing Government databases to business (Gore, 1993). The report promoted widespread access to information technology as a major means to providing better services to the public.

OMB Circular No. A–130

The Office of Management and Budget (OMB) is the executive–branch agency responsible for information management policy. Its Circular, No. A–130, serves as the basic information policy document for the management of Federal information resources. The Circular recognizes that Government information is a valuable national resource and that the free flow of information between the Government and the public is essential to a democratic society. As such, the management of Federal information resources should protect the public’s right of access to Government information.

OMB Circular No. A–130 states that agencies shall:

- Disseminate information products on equitable and timely terms;
- Provide information on how the public may gain access to agency information resources;
- Use electronic media and formats, including public networks, as appropriate and within budgetary constraints, in order to make Government information more easily accessible and useful to the public;
- Use voluntary standards and Federal Information Processing Standards where appropriate or required;
- Provide access to agency records under provisions of the Freedom of Information Act;

The Circular also notes that the development of public electronic information networks, such as the Internet, provides an additional way for agencies to increase the

diversity of information sources available to the public. Furthermore, the Circular states that emerging standards, such as ANSI Z39.50, will be used increasingly to facilitate dissemination of Government information in a networked environment. This networked environment is a requirement for the National Information Infrastructure (IITF, 1993).

The National Information Infrastructure

The *National Information Infrastructure: Agenda for Action* describes the National Information Infrastructure (NII) as “a seamless web of communications networks, computers, databases, and consumer electronics that will put vast amounts of information at user’s fingertips.” The document expresses this aspiration:

[The NII should] provide access to Government information and improve Government procurement. The administration will seek to ensure that federal agencies, in concert with state and local Governments, use the NII to expand the information available to the public, ensuring that the immense reservoir of Government information is available to the public easily and equitably. (IITF, 1993)

One initiative of the NII was to improve the accessibility of Government information by ensuring that the right information is stored and available and that “a virtual card catalogue” (a locator) is developed (IITF, 1994). The outcome of this initiative is the Government Information Locator Service.

Government Information Locator Service

As envisioned in the *National Information Infrastructure: Agenda for Action*, and under the authority of OMB Circular No. A-130, the Government Information Locator Service (GILS) was established on 7 December 1994 by OMB Bulletin No. 95-01. This

bulletin prescribes OMB and agency responsibilities, and includes definitions, specifications, implementation schedule, and information contacts.

According to OMB Bulletin No. 95-01, GILS provides a new way to identify, describe, and locate publicly available Federal information resources, including electronic information resources (OMB, 1994). GILS can be thought of as a Federal electronic card catalog. Just as the card catalog helps users of libraries locate books, journals, and other information resources, GILS is intended to assist the public in discovering information available from Federal agencies. This is done by creating files, called locators, that contain descriptive core elements. These locators do not typically contain the actual information resource itself. Rather it is a description of that resource, similar to the way that a catalog entry in a library identifies specific items. Core elements include the title of the resource, the originator, an abstract, and availability. Basically, a GILS locator identifies what information is available, where the information is located, and how to access it.

OMB Bulletin No. 95-01 directed agencies to make its initial GILS Core locator records available on-line by 31 December 1995 (OMB, 1994). The GILS Core consists of three different types of information sources. The first consists of entries that describe agency information dissemination products. The second type of information resource consists of automated information systems. The third type of information resource consists of Privacy Act systems of records. The Bulletin also requires agencies to submit to the Archivist, by 31 December 1996, a request for disposition authority for unscheduled records in the information resources described in the GILS Core.

Organization

GILS is organized as a decentralized collection of agency-based information locators (OMB, 1994). This decentralization allows locator records to be distributed among multiple independent information servers. Users then have multiple access points to Federal information. GILS uses network technology and international standards to direct users to the appropriate locator record. GILS locators must support the American National Standards Institute (ANSI) Z39.50 standard for information search and retrieval.

ANSI Z39.50 is a national standard defining a protocol for computer-to-computer information retrieval. The standard makes it possible for a user in one system to search and retrieve information from other computer systems (that have also implemented Z39.50) without knowing the search syntax that is used by those other systems. ANSI Z39.50 complies with the Open Systems Interconnection group of standards promulgated by the International Organization for Standardization (ISO) and is interoperable with the international standards for information search and retrieval, ISO 10162 and 10163. This interconnected electronic network allows users to query different servers concurrently and have the answers automatically combined.

GILS provides automated linkages that facilitate electronic delivery of on-line information products and services. These products and services can be accessed by direct users or by intermediate service providers. Direct users of the GILS must have access to a computer and to the Internet. Government and non-Government intermediaries generally provide a user-friendly interface that allows searches on a particular subject, agency, location, or other identifiable characteristic. A major advantage of the networked

and decentralized design of the GILS is that it allows users to electronically explore and obtain Government information.

1996 GILS Conference

The GILS is a current initiative and is still in its formulation stage. A conference is scheduled for 13–14 November 1996 and is being hosted by the National Archives and Records Administration. The conference is intended to bring together the diverse communities that have an interest in GILS, and provide a convenient forum for discussing its strengths, weaknesses, and future directions. The conference will highlight various GILS applications, such as the U.S. Federal GILS, and the lessons learned in their development and maintenance. The intended audience includes users of GILS, intermediaries for GILS, implementers of GILS applications (whether state, local, regional, national, or international), implementers of GILS software, information advocacy organizations and associations, U.S. Federal Government employees representing FOIA, and information technology, public affairs, records management, and library personnel. The two-day conference will examine critical issues and provide varying perspectives on GILS. Keynote speeches and panel discussions will provide an overview of GILS status and directions, and technical and management sessions will provide more in-depth coverage of selected issues. Full details are available on the GILS website (GILS, 1996).

FOIA Business Process Project

In 1993, the Directorate of Information Management at Hanscom Air Force Base was directed to identify a business process that could be reengineered to accommodate

the use of electronic commerce and electronic data interchange. Guidelines stipulated that the process had to be usable and exportable to other DoD agencies. The directorate selected the FOIA request process. A reengineered FOIA process would reduce the number of public requests, while increasing ease of access to publicly releasable information.

Upon SAF/AAI approval, Ogden Government Services conducted a workshop to provide the necessary instruction to the team to develop functional and information models. The team consisted of personnel from FOIA, contracting, legal, information management, and computer systems. Analysis of the FOIA process revealed that most requests pertain to contracts and, furthermore, several requests were received for the same information. The team determined the current paper-driven FOIA process could be greatly enhanced by allowing automated processing of FOIA requests.

The team decided upon two primary areas of interest. The first was to develop a public access electronic bulletin board in order to automate the FOIA process. The second was to allow faster and easier FOIA processing by using electronic means from request to response to payment. The team developed the data models, milestones, and phases necessary to complete the project. Although the project was technically sound, it did not come to fruition. The project was canceled for undetermined reasons.

Conclusion

Government information belongs to the people, and the FOIA, with its amendments, provide an avenue for citizens to exercise their rights to federal information. Although the EFOIA of 1996 forces agencies to make more Government information available

electronically, the only way to submit a FOIA request is via a written letter. Electronic requests are not permitted. The GILS could provide the means for allowing electronic FOIA requests. Before such a change could be mandated, it is necessary to identify the underlying issues involved with using GILS to submit electronic FOIA requests.

Chapter 3

Methodology

Overview

This chapter describes the methodology used to gather and analyze the data related to the policy issues involved with using the Government Information Locator Service (GILS) for electronic Freedom of Information Act (FOIA) requests. There is an extensive amount of material written about the FOIA and its amendments, the problems with the Act in today's environment of electronic access, and the specific intentions and mandates of the GILS. As this thesis deals with legislative initiatives that have been or are currently being implemented, an examination and synthesis of several federal policy documents and expert opinions were considered to be the most effective way to research the subject. Therefore, the methodology used in answering the research questions involved a retrospective literature review of official Government documents and published articles, and a focused synthesis of information gained from individual questionnaires.

Data Sources

Applied research, by its very nature, is a systematic search for information concerning a topic. It is conducted to reveal answers to questions related to action, performance, or policy needs (Cooper & Emory, 1995). The sources of this information

can be classified as either primary or secondary. Primary sources are original and yield data intended for a specific task or study, while secondary sources comprise information that has been collected by others to be used for another purpose (Cooper & Emory, 1995). This study comprises data from both primary and secondary sources.

Primary Data Sources

The information necessary to compare what experts in the field believed as compared to that identified by literature was gathered through a self-administered questionnaire (see Appendix B). The population of interest for this questionnaire was Air Force FOIA managers at headquarters, major commands (MAJCOM), and base level. Working under the guidance of the MAJCOM FOIA managers, 54 organizations were selected to receive the questionnaire. The questionnaire was sent either by the United States Postal Service, electronic mail, facsimile, or a combination of the previous delivery methods. A follow-up was made by telephone to verify the questionnaire was properly received. The questionnaire instrument consisted of both closed and open-end questions which addressed the following areas:

- Questions concerning the duties of the FOIA manager
- Questions to determine the quantity, costs, and characteristics of FOIA requests
- Questions to determine the issues involved with allowing electronic FOIA requests versus only allowing written requests
- Questions to determine if the Air Force should pursue allowing electronic FOIA requests by using GILS

The questionnaire was designed with concepts of validity and reliability firmly in mind. Of the various types of validity that may be illustrated by a measurement tool—content, criterion-related, and construct validity—content validity was the most apparent in this particular questionnaire instrument. The FOIA Questionnaire (see Appendix B) met the

criteria for content validity in that it provided adequate coverage of the topic under study (Cooper & Emory, 1995). Similarly, it addressed the specific concerns brought forth in the investigative questions. Since the questionnaire was exploratory in nature, it did not meet the criteria for either criterion-related or construct validity. These criteria, however, could be incorporated in similar follow-on studies.

Secondary Data Sources

Secondary data sources for this study include public laws, circulars, bulletins, directives, regulations, official letters, and other published sources, including books and magazines. These secondary sources are well suited to a retrospective study due to the relative ease, timeliness, and economy in collection (Cooper & Emory, 1995).

Research Plan

This research seeks to explore the underlying policy issues that might affect using GILS for electronic FOIA requests. Since policy research operates at the boundaries of research methodology, there is no single, comprehensive methodology for doing the technical analysis of policy research (Coleman, 1975). In an effort to comprehend these issues, the legal requirements of the FOIA and GILS were initially reviewed. Historical research provided this framework. According to Borg and Gall, historical research is “a systematic and objective location, evaluation, and synthesis of evidence in order to establish facts and draw conclusions concerning past events” (Borg & Gall, 1971). Next, the data obtained from the questionnaires were analyzed using the historical framework as the basis. Lang and Heiss propose that research deals with the past “based on a critical analysis and synthesis of sources” (Lang, Gerhard, & Heiss, 1984). The major thrust of

this effort is, therefore, an extensive search, review, analysis, and synthesis of relevant data from the primary and secondary data sources. Generally, the research plan follows the following sequence:

1. Conduct a literature review
2. Distribute questionnaires
3. Analyze questionnaire data
4. Synthesize data from literature review and questionnaires

Focused Synthesis

Focused synthesis involves extracting and integrating pertinent information from a variety of sources (Majchrzak, 1984). Focused synthesis is similar to a traditional literature review in the sense that they both involve a selective review of published materials relevant to the study. However, focused synthesis differs from a traditional literature review by discussing information obtained from a variety of sources beyond published materials. These sources may include opinions from experts in the field, congressional hearings, unpublished documents, and staff memorandums.

Another way that focused synthesis and literature reviews differ is in the extent to which they stand alone. Traditional literature reviews are generally used as precursors for later research. In contrast, focused synthesis tends to be used alone for technical analysis (Majchrzak, 1984). The results of the synthesis are the results of the policy research effort. The recommendations presented are derived exclusively from the synthesized information.

In synthesizing the material, the researcher should ensure the sources are relevant to the study. Two categories of criticism, external and internal, should be applied to sources used in the research. External criticism asks whether the document or relic is authentic, and internal criticism asks whether the data are accurate and relevant (Isaac, Stephen, &

Michael, 1981). It is imperative that sources are reliable and valid. External validity concerns the degree to which findings can be generalized across persons, settings, and times, while reliability is concerned with whether the source is free from error (Cooper & Emory, 1995). These issues were considered in selecting the sources for this study.

Chapter 4

Analysis and Results

Introduction

This chapter addresses the data gathered in the process of this study. Specifically, it is a summary, analysis, and synthesis of the data that is directly applicable to the investigative questions. Since the necessary data was gathered from two sources, a literature review and a FOIA Questionnaire, this chapter is divided accordingly.

Literature Review

The literature review provided a lengthy discussion of the legislative intent of the FOIA and its amendments. This law gave the public greater access to Government information by removing the “need to know” requirement. The FOIA allows access to official records, rules, opinions, orders, and proceedings through three types of disclosure. First, rules of practice must be published in the Federal Register. Second, records must be made available in reading rooms and indexed; or third, records must be disclosed upon receipts of a written request. Although the intent of the FOIA was to allow citizens greater access to Government actions and decisions, in practice, information was withheld whenever there was a legal basis for such action.

The practice of withholding information whenever possible conflicted with the intent of the FOIA and created enormous backlogs of FOIA requests and appeals. In an effort to be more responsive to the public, President Bill Clinton and Attorney General Janet Reno issued directives that reversed standing policy and called for a presumption of openness. However, prior to its latest amendment, FOIA requests only pertained to records in paper form.

The Electronic Freedom of Information Amendments (EFOIA) of 1996 force agencies to make Government information available electronically. This is a natural development in that Government agencies increasingly use computers to conduct their day-to-day activities. The EFOIA explicitly states four purposes, which all relate to improving the public's access to Government information. The EFOIA not only ensures public access to agency records and information, it seeks to improve this access. It also intends to maximize the usefulness of information maintained by the Federal Government.

The amendment directs agencies to take affirmative steps to put more Government information on-line. The intent is to decrease the number of FOIA requests by making records (that are likely to be the subject of future requests) electronically available so that no FOIA request is necessary to inspect the record. Agencies must also provide an index of all major information systems containing agency records for the public to review. The focus is on a responsive and open Federal Government.

This focus on a responsive Government is promulgated in other reports and directives. The National Performance Review recommended re-engineering Government programs to make more effective use of electronic capabilities. The report promoted

widespread access to information technology as a major means to providing better service to the public. OMB Circular No. A-130 directs agencies to use electronic media and formats, including the Internet, in order to make Government information more easily accessible and useful to the public. The National Information Infrastructure is intended to be a seamless web of communications networks, computers, databases, and consumer electronics that will put vast amounts of information at user's fingertips. Technological advances in information systems and networks have allowed the Government to provide the public with electronic access to information.

The Government Information Locator Service (GILS) provides an electronic means to identify, describe, and locate Federal information. GILS consists of a decentralized collection of agency-based information locators. These locators typically do not contain the actual information resource itself. Rather it identifies what information is available, where the information is located, and how to access it. Currently, if the requested information is not available through GILS, a person or business must then submit a written request. The written request must reasonably describe the desired document and must be sent to the FOIA office of the agency that has responsibility for the record.

FOIA Questionnaire

The FOIA Questionnaire was electronically sent to 54 FOIA managers throughout the Air Force. As a back-up, the questionnaire was also sent by facsimile or by the United States Postal System. Twenty-three FOIA managers chose to respond to the questionnaire for a 43 percent return rate. Descriptive statistics concerning the demographics of the FOIA managers questioned are listed in Table 2.

Table 2. Respondents By Organizational Level

ORGANIZATION LEVEL	REPLIES	DISTRIBUTED	RETURN RATE
HQ & Wing	7	11	64%
Base	16	43	37%
TOTAL:	23	54	43%

Although the researcher had hoped to receive 30 or more replies, the 23 received were sufficient to gather data concerning the specific investigative questions. It must be noted that, although, the questionnaire explicitly stated that all responses to the questionnaire would be held in the strictest of confidence, two FOIA managers indicated through telephone conversations they verbally doubted this statement and subsequently chose not to participate. Four other FOIA managers replied that they just did not want to be involved with anything that might facilitate electronic FOIA requests. Finally, nine FOIA managers replied through telephone conversations they just did not have enough time in their busy schedule to complete the questionnaire. Thus, the actual response rate of 43 percent is quite respectable considering the number of FOIA managers who consciously chose not to respond.

Questionnaire Analysis

FOIA managers work within the functional area of Records Management, which typically contains from one to six individuals. Of the 23 FOIA questionnaires received, nine individuals said processing FOIA requests was their primary job, thirteen said it was their secondary job, and one said she developed FOIA policy instead of actually processing requests. Other responsibilities of the FOIA personnel include Records

Management, Privacy Act, Reports Control, Destruction Facility, and Document Imaging.

Table 3 identifies the frequency each was cited on the questionnaire.

Table 3. Other Duties Identified By Respondents

OTHER DUTIES	FREQUENCY
Record Management	16
Privacy Act	15
Reports Control	3
Destruction Facility	3
Document Imaging	2

The average number of FOIA requests of the respondents for 1993, 1994, and 1995 was 272, 297, and 211, respectively. However, the range varied significantly from one organization to another. Table 4 displays the average number of FOIA requests and the range between the smallest and largest number of requests for the previous three years.

Table 4. Average and Range of FOIA Requests for 1993–1995

YEAR	AVERAGE	RANGE
1993	272	1701
1994	297	2076
1995	211	1143

A significant number of requests, 77 percent, are for unclassified records, whereas only 6 percent of the requests are for classified information. Government contract information was quoted as the number one source of requested unclassified information. The remaining 17 percent of requests are considered for official use only. According to the sample, an average FOIA request generates ten pages of documents and takes nine

days to process. Business requests for information concerning contracts resulted in a larger number of documents than did individual requests for information.

To determine the extent that the Government should provide free access to information rather than placing it on a cost recovery basis, the FOIA managers were asked to rate, using a scale from one to ten, whether they agreed with the following statement: In your opinion, to what extent should the Government provide fee access to information rather than placing it on a cost recover basis? A “1” represented “no information free” and a “10” represented “all information free.” Only six respondents (26 percent) gave a rating of “6” or higher. Seventeen respondents (74 percent) gave a rating of five or below and six respondents chose “1”, i.e., they thought the Government should not provide free access to information.

To determine the potential effective of requiring agencies to put more Government information on-line, the FOIA managers were questioned as to whether they thought the total number of FOIA requests would increase, decrease, or remain the same. Eighteen respondents (78 percent) said the number of FOIA requests would decrease, five respondents (22 percent) said there would be no change in the number of requests, and no one thought the number of requests would increase.

Since GILS is a recently mandated system, the FOIA managers were questioned as to whether they had previous knowledge of the system and whether they would recommend that the Air Force pursue allowing individuals to submit FOIA requests by using GILS. Fourteen respondents (61 percent) had prior knowledge of GILS, eight respondents (35 percent) did not, and one respondent (4 percent) did not reply.

Of the fourteen respondents who knew of GILS, six FOIA managers (43 percent) would recommend that the Air Force pursue allowing FOIA requests by using GILS. One respondent said “[GILS] would speed the process up and give requesters access to more records.” Another respondent said “If GILS is going to serve as a locator where members of the public can find records, then permitting a requester to ask for copies of a record once located within an agency would seem beneficial to the public.”

On the other hand, another six FOIA managers (43 percent) would not support the recommendation to modify GILS to accept electronic FOIA requests. One respondent said GILS was not user friendly. Another respondent said GILS could not be used because FOIA requests require original signatures. Plus, one respondent said that most bases do not have electronic capability. The respondent said “the manner of requests should be consistent, it should not be based on various commands’ or bases’ capabilities.” The final two respondents (14 percent) had no opinion regarding the recommendation to modify GILS to accept electronic FOIA requests.

Since there are other ways to possibly submit FOIA requests other than by using GILS, the respondents were questioned as to whether they would recommend that the Air Force pursue allowing individuals to submit FOIA requests by other electronic methods. Fifteen respondents (66 percent) replied “yes”, seven respondents (30 percent) replied “no”, and one respondent (4 percent) did not reply.

The fifteen respondents who responded “yes” to allowing individuals to submit FOIA requests by other electronic methods were then asked to select or identify all the other electronic methods they would support and explain the reasons for their selections. Twelve respondents selected electronic mail, eight selected a homepage on the World

Wide Web, and five each selected electronic bulletin board and facsimile. The reasons behind their selections were long and varied. Four FOIA managers stated faster processing, quicker response, and better customer service as reasons for accepting electronic requests. Two other respondents said the intent of the law and the spirit of the new FOIA amendment is to honor requests submitted by any means. Yet two other FOIA managers stated that those individuals or businesses possessing the means to do business in an electronic manner should be allowed to use the most expedient means possible to submit their request. Interestingly, one respondent did not believe that there was any difference in receiving a FOIA request by electronic means compared to receiving it by postal service or courier.

The seven respondents who responded “no” to allowing individuals to submit FOIA requests by other electronic methods were then asked to explain the reasons for their opinions. Three respondents said that electronic means could not be used because FOIA requests required original signatures. Accountability for receipt of the request was also identified as a major reason. A FOIA manager said, “At this point in time, most of our bases do not have the necessary equipment to allow them to adequately use electronic means to receive FOIA requests. Many bases do not have local area networks (LANs) throughout the base nor are their e-mail connections dependable. When submitting FOIA requests electronically, there is no way to verify receipt by the appropriate office as LANs or e-mail connection may be down.” Furthermore, another FOIA manager said electronic FOIA requests would be more costly to the Government in that the FOIA request must be printed when received and logged as proof of receipt.

Two respondents said that the use of electronic means for FOIA requests would tend to clog up the networks because it would be too convenient for the requester to make a request. “Requesters are much more likely to ‘need the records’ when submitting FOIA requests in writing versus ‘nice to have’ when requesting electronically, especially at today’s FOIA prices,” replied one requester. Security of electronic means and Privacy Act requirements were other concerns.

To understand the potential effect on the total number of requests if electronic FOIA requests were allowed, the FOIA managers were asked whether they thought the total number of requests would increase, decrease, or remain the same. Fifteen respondents (65 percent) thought the number of requests would increase, zero respondents thought the number would decrease, seven respondents (30 percent) thought there would be no change in the number of requests, and one respondent did not reply.

FOIA managers were also separately asked to identify the greatest benefit in allowing electronic FOIA requests. Fifteen responses were similar to those listed above (faster processing, quicker response, and customer convenience). Others, such as cost savings from reduced postal fees and reduction in paper, were identified for the first time. Finally, five respondents stated there are no benefits to the Government or FOIA personnel in allowing electronic FOIA requests. There are only benefits for the requester. One respondent stated “... it could cause additional workload in the FOIA office as someone would have to monitor the electronic modes of receipt for incoming requests.”

To further determine the issues involved, the participants were asked to identify the greatest obstacle in allowing electronic FOIA requests. Lack of funds and adequate systems support (includes hardware, software, and network connectivity) were listed by

nine respondents. A respondent stated, “Government and private sectors are not on the same level in terms of possessing automated resources or in terms of compatibility in information interchange.” Another problem is consistency on the part of the Government in checking potential sources for the receipt of these requests in order to process them in a timely manner. The problem of misrouted requests and the possible invasion of personal privacy could pose potential legal and processing problems. Six respondents said that not being able to obtain or verify original signatures could also lead to Privacy Act violations. Other potential obstacles listed were adequate training programs, security of electronic media, collection of fees, and proper release of information. Only one respondent stated there were no obstacles in allowing electronic FOIA requests.

In contrast to electronic FOIA requests, the FOIA managers were also asked to list the advantages and disadvantages of only accepting written FOIA requests. Ten respondents listed authenticity as the primary advantage. FOIA offices will have in their possession documents with original signatures and return addresses for fee collection and for legal purposes, if needed. A respondent elaborated on the litigation issue, “Written requests are easier to track, for investigative purposes, in case such an issue does come up where the [FOIA office] wants to find out more information about the requester and the reason for the request.” Three respondents felt that only accepting FOIA requests by written letter results in less overall requests because of the level of effort involved. However, four respondents stated there are no advantages to only accepting written FOIA requests, with one individual stating “Positive identification and original signatures are seldom issues.”

Concerning the disadvantages of only accepting FOIA requests by written letter, ten respondents said it slows down the process and generates more paperwork. A FOIA manager said “The primary disadvantage of using the written letter is the time required to gain supplemental information from a requester if the original request does not clearly spell out the requirement or if one or more elements needed to process the request are missing. Exchanging the information through mail channels cuts into the time line by which we set our quality standards.” On the other hand, seven respondents said there are no disadvantages of only accepting written FOIA requests. A respondent said that electronic requests have to be printed so the FOIA office can date stamp, log, and send the request to the office of primary responsibility. Other disadvantages listed were excess paper generation and not allowing requester to use the technology they have available. Three respondents did not reply to the question.

The final open-ended question asked for any additional inputs the FOIA managers would like to provide. The following comments were made:

- I think it would be great if we could provide releasable records to the requester through an electronic means. This would save man hours and paper.
- A close working relationship with the MAJCOM or other FOIA managers is crucial to the success of processing FOIA cases consistently and accurately.
- I feel requesters should have to accept records as routinely maintained by the Government in their day-to-day business as usual format and requesters should be liable for “all” costs.
- You have not addressed your questions to the accessibility of any government information sources, such as GILS being at your corner Public Library, and the effect on reducing trivial and harassing FOIA requests.
- Processing FOIAs is a very complex job requiring an in-depth knowledge of records management as to where to locate records, the duties of different agencies on base, and a good grasp of what can and cannot be released. It requires a good knowledge of what is considered withholdable as well as how the Privacy Act and FOIA programs interact.

Summary

This chapter presented the findings from the data analysis. The next chapter will present the conclusions and recommendations which have been drawn from this information.

Chapter 5

Conclusions and Recommendations

Introduction

The primary purpose of this thesis was to determine the issues involve with allowing electronic Freedom of Information Act (FOIA) requests and determine if the Government Information Locator Service (GILS) could be used as a means for allowing electronic FOIA requests. Due to the exploratory nature of this thesis research, there were a number of instances where, in addition to solid, supporting information, conflicting information was also presented. This was especially true during the analysis of the FOIA questionnaire. Despite these difficulties, this chapter will provide the most reasonable and supportable conclusions to each of the investigative questions. This chapter will identify limitations of this study and then conclude with recommendations concerning appropriate follow-on research.

Investigative Question #1

Investigative Question #1: Are there benefits in allowing electronic FOIA requests?

This research showed that without a doubt there are benefits in allowing electronic FOIA requests. The literature review revealed that the underlying premise of the United States Government is that an informed citizenry is critical to a democratic society. To

ensure its citizens have the opportunity to stay informed, Congress has enacted and amended laws to protect public access to federal information. The FOIA's latest amendment, the Electronic Freedom of Information Amendments of 1996, is the newest law to recognize the benefits of electronic access to Government information. With the rapid proliferation in the use of the Internet, there is an increased emphasis for access by electronic means.

The FOIA questionnaire findings were the most revealing in terms of identifying the benefits of allowing electronic FOIA requests. The primary benefits indicated by FOIA managers were faster processing, quicker response, and better customer service. Other benefits included cost savings and reduced paper handling and filing requirements. Two respondents said the intent of the law and the spirit of the new FOIA amendment is to honor requests submitted by any means. Two other FOIA managers stated that those individuals or businesses possessing the means to do business in an electronic manner should be allowed to use the most expedient means possible to submit their request.

Although the majority of the FOIA managers replied that there would be benefits in allowing electronic FOIA requests, five respondents stated that there are only benefits for the requester. These FOIA managers believed there are no benefits to the Government or FOIA personnel in allowing electronic FOIA requests. One respondent stated "... it could cause additional workload in the FOIA office as someone would have to monitor the electronic modes of receipt for incoming requests." This seems to be a true concern considering that fifteen respondents (65 percent) thought the number of requests would increase if electronic FOIA requests were allowed. If the intent of the Government is to provide better access to Federal information, an increase in FOIA requests may indicate

that the program is succeeding. However, as a side issue, current laws are mandating that agencies put more Government information on-line. In effect, individuals would have access to more information without having to submit a formal FOIA request, written or electronic. Given this situation, eighteen respondents (78 percent) thought the total number of FOIA requests would decrease and no one thought the number of requests would increase.

Investigative Question #2

Investigative Question #2: Are there policy issues involved with allowing electronic FOIA requests?

Unquestionably, there are policy issues involved with allowing electronic FOIA requests. The primary issues concerned legal requirements for original signatures (to properly identify the requester), Privacy Act restrictions, and accountability for receipt of the request. A FOIA manager said, "At this point in time, most of our bases do not have the necessary equipment to allow them to adequately use electronic means to receive FOIA requests. When submitting FOIA requests electronically, there is no way to verify receipt by the appropriate office as LANs or e-mail connection may be down." Lack of funds, inadequate network systems, and security were other issues identified by the respondents. Security is a major concern when dealing with requests for classified information. Although analysis of the questionnaire showed 77 percent of FOIA requests are for unclassified documents, a policy dealing with classified documents would have to be established.

Investigative Question #3

Investigative Question #3: Can the Government Information Locator Service be used as a means for allowing electronic FOIA requests?

The Government Information Locator Service (GILS), as it is now implemented, can not support allowing electronic FOIA requests. Since it is relatively new system, many individuals do not fully understand its purpose or capabilities. Six FOIA managers would not support the recommendation to use GILS as a means to accept electronic FOIA requests. One respondent said GILS was not user friendly and another said that most bases do not have the capability to access GILS.

Of the fourteen respondents who knew of GILS, six FOIA managers would recommend that the Air Force pursue allowing FOIA requests by using GILS. One respondent said “[GILS] would speed the process up and give requesters access to more records.” Another respondent said “If GILS is going to serve as a locator where members of the public can find records, then permitting a requester to ask for copies of a record once located within an agency would seem beneficial to the public.”

Discussion

It was apparent from the literature review that the intent of current legislation dealing with access and dissemination of information is an increased emphasis and reliance on electronic media. In effect, Government information should be easily accessible and available electronically. Unfortunately, the analysis of replies from FOIA managers shows a reluctance of some FOIA managers to make information available. Some FOIA managers want to accept FOIA requests only by written letter as a means to limit the total

number of FOIA requests. These FOIA managers indicated that allowing electronic FOIA requests would cause the total number of FOIA requests to increase because it would be “too easy” to make a request. In essence, the FOIA managers want to make the process of submitting a FOIA request somewhat difficult in order to minimize the number of requests. Obviously, there is less work involved for the FOIA manager when there are fewer FOIA requests. It appears there is a disconnect between the intent of the law and how it is being implemented at the operational level.

Another area of concern is the issue of original signatures on FOIA requests. Some FOIA managers adamantly believe that electronic requests are not possible because the law requires a written letter with original signatures. However, if this is true, there are Air Force FOIA offices not in compliance with the law. Analysis of the replies on the FOIA questionnaire showed that some FOIA managers did not see any difference between written FOIA requests and requests that are submitted via electronic mail or facsimile. The FOIA managers simply print the electronic FOIA request and process it just like a written FOIA request. These FOIA managers are not of the opinion that original signatures are required for a valid FOIA request.

Recommendations

In order to fully understand the implications of allowing electronic FOIA requests, the following recommendations are made:

1. The legality of accepting electronic FOIA requests needs to be determined. Specifically, are original signatures legally required on FOIA requests or will electronic signatures suffice? This is especially vital since some Air Force FOIA offices are already accepting FOIA requests submitted by facsimile and by electronic mail. (These requests do not contain an original signature.) Whereas

- other FOIA managers are under the opinion that original signatures are required by law.
2. Once the legality of accepting electronic FOIA requests has been determined, there is a need for increased standardization throughout the Air Force concerning the process by which FOIA requests are received and processed. It was evident from the data obtained from the FOIA questionnaire that FOIA offices across the Air Force do not have the same capability in terms of hardware, software, or networks.
 3. Finally, as a means to possibly decrease the total number of FOIA requests, the Air Force should be proactive in making more information available to the public. Eighteen FOIA managers (78 percent) believe the total number of FOIA requests would decrease if more information was accessible without having to request it.

Limitations

The major limitation of this research concerned the qualitative nature of the study. Since this study was exploratory in nature, the questionnaire did not meet the criteria for either criterion-related or construct validity. Also, the use of open-ended questions on the questionnaire forced a subjective analysis of the findings.

Another limitation concerned the sample size and distribution of the FOIA questionnaire. Although 43 percent of the FOIA managers responded to the questionnaire, this represents only 23 actual replies. Thus, the ability to generalize across the population of all Air Force FOIA managers is limited. Also, not all MAJCOMs had similar representation which may have caused the results to be skewed.

Recommendations for Future Research

This thesis research explored a variety of topics concerning electronic FOIA requests. Since the FOIA is a federal law, it is imperative that it is correctly implemented. Working within the law's guidelines, the author recommends conducting a pilot project in which electronic FOIA requests are allowed. This project should be similar to the FOIA Business Process Project started at Hanscom Air Force Base. A reengineered FOIA

process could reduce the number of public requests, while allowing electronic access to publicly releasable information.

Also, since the Government Information Locator Service (GILS) is supposed to help the public locate and access information throughout the Government, the author recommends research into the feasibility of allowing FOIA requests on the system. Specifically, technological research should be done to determine how easily the GILS can be modified to allow electronic FOIA requests.

Appendix A

FOIA Exemptions

Exemption 1

This exemption covers national security information, i.e., information requiring protection in the interest of defense or foreign relations, which has been properly classified under the standards and procedures of an Executive Order for protecting such information. In order for documents to be withheld under this exemption they must have been properly classified to protect such interests, and the courts have the final decision as to whether the classification was proper (5 USC, Section 552(b)(1)).

Exemption 2

The second exemption is for information “related solely to the internal personnel rules and practices of an agency” (5 USC, Section 552(b)(2)). This covers internal agency matters which are more or less trivial in the sense that there is not substantial and legitimate public interest in their disclosure; also, probably, internal agency instructions to investigators, inspectors, and auditors, but only to the extent that such instructions constitute confidential investigatory techniques and procedures the disclosure of which would seriously hamper the detection of violators.

Exemption 3

The third exemption is for information which has been exempted from disclosure by another statute (5 USC, Section 552(b)(3)). This is a cross-reference to various other federal withholding statutes, and protects under FOIA material which another statute protects, provided that the other statute either (a) prohibits disclosure, or (b) confers discretion to withhold or release and either (i) provides criteria to guide such discretion or (ii) specifies the type of material to which discretion applies.

Exemption 4

The fourth exemption covers “trade secrets” and other confidential business information furnished to an agency from outside the Government (5 USC, Section 552(b)(4)). Few problems arise over trade secrets in the strict sense; most of the disputes are over whether other business information is truly confidential.

Exemption 5

The fifth exemption covers “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency” (5 USC, Section 552(b)(5)). This covers internal communications within the executive branch of the Government to the extent they are deliberative, or are covered by the attorney-client or attorney work product privileges. Most cases deal with the deliberative privilege, the purpose of which is to preserve free and candid internal dialogue leading to executive branch decision making. The exemption thus protects advice, recommendations, proposals, and the like, but does not protect essentially factual matter, or even opinions on questions of fact, except as such material may be inextricably intertwined with deliberative matter or with a deliberative process. An Exemption 5

document must be pre-decisional, and the document may lose its character as such if an agency “adopts” the document, i.e., authoritatively indicates that the document is the agency’s explanation of its decision or statement of its policy.

Exemption 6

The sixth exemption protects “personnel and medical files and similar files the disclosure of which would be a clearly unwarranted invasion of personal privacy” (5 USC, Section 552(b)(6)). To be covered, information must be (a) about an identifiable individual, (b) an invasion of the individual’s privacy if disclosed to others, and (c) clearly unwarranted to disclose. The “clearly unwarranted invasion” test applies to all files relating to individuals, and there is no separate status for “personnel and medical files” (DAF, 1976). According to the Attorney General’s Blue Book on the 1974 FOIA Amendments, release of information about an individual may invade his privacy if it is information which he “could reasonable assert an option to withhold from the public at large because of its intimacy or its possible adverse effects upon himself or his family.” Exemption 6 does not apply if the injury to the individual is counterbalanced by a public interest favoring release. In performing this balancing, there is some question whether the public interest to be weighed is that in a release to the particular requester or that in a release to the entire public. The clear weight of authority, however, is that it is sometimes permissible to weigh the private injury and the public benefits of a release to the particular requester.

Exemption 7

This exemption, which was amended in 1974, exempts “investigatory records” which are compiled for “law enforcement purposes” to the extent that one of six types of harm

specified in clauses (a) – (f) are present (5 USC, Section 552(b)(7)). An investigation is for law enforcement purposes if it is violation-oriented or if it is a personnel background security investigation. General agency audits, reviews, or investigations of the manner in which the agency accomplishes its mission are not considered law enforcement investigations. Law enforcement files are exempt from disclosure only if it would cause any of six types of harm. The section exempts records from disclosure:

“to the extent that the production of such records would:

- a) interfere with enforcement proceedings,
- b) deprive a person of a right to a fair trial or an impartial adjudication,
- c) constitute an unwarranted invasion of personal privacy,
- d) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,
- e) disclose investigative techniques and procedures, or
- f) endanger the safety of law enforcement personnel.”

Exemption 8

The eighth exemption protects information “contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions” (5 USC, Section 552(b)(8)).

Exemption 9

The last exemption protects “geological and geophysical information and data, including maps, concerning wells” (5 USC, Section 552(b)(9)). It has hardly been interpreted at all, perhaps because the information would also be protected by the fourth exemption for confidential commercial information.

Appendix B

FOIA Questionnaire

Dear FOI Manager,

I am a graduate student at the Air Force Institute of Technology (AFIT) researching a thesis on the issues surrounding using the Government Information Locator Service (GILS) as a means for submitting **electronic** Freedom of Information Act (FOIA) requests. The GILS provides a new way to identify, locate, and describe publicly available Federal information resources, including electronic information resources. The GILS can be thought of as an electronic card catalog; it identifies public information resources throughout the Federal Government, describes the information available in these resources, and assists in obtaining the information.

I am sending this questionnaire to your office because I understand that you process FOIA requests for your unit. As a FOI manager, you are directly affected by FOIA mandates. Your responses to this questionnaire will be held in strict confidence. I ask for your name on the questionnaire only as a means for follow-up questions, if necessary.

Please return the completed questionnaire as soon as possible so that I may incorporate your responses in my analysis. Fax and telephone numbers are listed at the end of the questionnaire. Your timely assistance is greatly appreciated.

Name: _____

Duty Title: _____

Organization/Office Symbol: _____

Address: _____

Phone Number: (DSN) _____ Commercial: _____

Fax Number: (DSN) _____ Commercial: _____

E-Mail Address: _____

Please answer the following questions, using extra sheets of paper, as required.

1. Processing FOIA requests is my ☐ Primary Job ☐ Secondary Job
2. My other duties include?

3. How many employees work in the FOIA office?

4. How many FOIA requests did your office respond to during the reporting period for
1995 _____ 1994 _____ 1993 _____
5. Please indicate the approximate percentage of requests for each category?
_____ % Unclassified
_____ % For official use only
_____ % Classified
_____ % Other _____
6. In your opinion, what do you think would be the effect on the total number of FOIA requests if more information was accessible without having to request it?
☐ Increase ☐ Decrease ☐ No change
☐ Other _____
7. From your experience, who makes the majority of FOIA requests?
☐ Individual ☐ Business ☐ Academic Institution
☐ Journalist ☐ Historian ☐ Prison Inmate
☐ Other _____
8. On average, how many pages does a FOIA request generate?

9. On average, how long does it take to process a FOIA request?

10. What was the total number of **pending** FOIA requests at the end of the reporting period for
1995 _____ 1994 _____ 1993 _____
11. For the 1995 reporting period, how much did your office collect in fees from the public, including search, review, and copying fees?

12. For the 1995 reporting period, what was the total FOI Program Costs for your office?

13. In your opinion, to what extent should the Government provide free access to information rather than placing it on a cost recovery basis?

Please type in a number between 1 and 10 : _____ (The scale is listed below.)

1 2 3 4 5 6 7 8 9 10
Scale: No information free All information free

14. For the 1995 reporting period, what was the estimated number of Manyears for the FOI Program for your office?

15. For the same reporting period as question 14, what was the estimated Manyear Costs by category?

Search time	_____
Review and Excising	_____
Coordination and Approval	_____
Correspondence Preparation	_____
Other Activities	_____
Total	_____

16. Have you previously heard of the Government Information Locator Service (GILS)?

☐ Yes ☐ No If you answered 'No' – please go to question 19.

17. Based on your experience, would you recommend that the Air Force pursue allowing individuals to submit FOIA requests by using the GILS?

☐ Yes ☐ No

18. What are the reasons for your answer to question 17?

19. Based on your experience, would you recommend that the Air Force pursue allowing individuals to submit FOIA requests by other electronic means?

☐ Yes ☐ No If you answered 'No' – please go to question 21.

20. What other ways should individuals be able to submit FOIA requests?

☐ E-mail ☐ Electronic Bulletin Boards ☐ Home Page
☐ Other _____

21. What are the reasons for your answer to question 19?

22. In your opinion, what is the greatest obstacle in allowing electronic FOIA requests?

23. In your opinion, what is the greatest benefit in allowing electronic FOIA requests?

24. If individuals had the option to submit FOIA requests electronically, what do you think would be the effect on the total number of requests?

☐ Increase ☐ Decrease ☐ No change
☐ Other _____

25. In your opinion, what are the advantages of only accepting FOIA requests by written letter?

26. In your opinion, what are the disadvantages of only accepting FOIA requests by written letter?

27. What criteria would you use to measure the effectiveness of your office in providing access to Government information?

28. Using this criteria, please rate the effectiveness of your office in providing access to Government information.

Please type in a number between 1 and 10 : _____ (The scale is listed below.)

Scale: 1 2 3 4 5 6 7 8 9 10
Not effective Somewhat effective Very effective

29. Is there is any additional information you would like to provide?

30. May I have a copy of the annual report you filed for 1995?

☐ Yes (Please attach to completed questionnaire) ☐ No

Please return the completed questionnaire by either by fax, e-mail, or mail. Thank you for your participation.

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